

# City of Mississauga

# Corporate Report



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| Date: May 30, 2024<br><br>To: Chair and Members of General Committee | Originator's files:            |
| From: Raj Sheth, P.Eng, Commissioner of Corporate Services           | Meeting date:<br>June 19, 2024 |

## Subject

**Amendments to Noise Control By-law 0360-1979**

## Recommendation

1. That the Noise Control By-law 0360-1979, as amended, be further amended to implement recommendations relating to the City's Noise Control Program Review, substantially in the form set out in Appendix 2, as outlined in the corporate report from the Commissioner of Corporate Services, dated May 30, 2024, entitled "Amendments to Noise Control By-law 0360-1979".
2. That the User Fees and Charges By-law 0199-2023, as amended, be further amended to include a new monitoring fee of \$90 per hour per municipal law enforcement officer to recover costs related to approved noise exemptions, as outlined in this corporate report.
3. That Legal Services be authorized to make an application to the Ministry of the Attorney General for set fines under Part I of the Provincial Offences Act for the Noise Control By-law 0360-1979, as amended, in such amount(s) as set out in in this corporate report.
4. That the Live Music Pilot be extended for two years, until June 28, 2026.
5. That all necessary by-laws be enacted.

## Executive Summary

- Following the June 2023 report to Council, staff are seeking approval to implement the recommendation related to the introduction of decibel limits and improvements to the noise exemption process.
- The report recommends the introduction of decibel limits of amplified sound, with the decibel limit set for outdoor and indoor areas dependent on the time of day and identifies changes to the noise exemption process to improve the user experience and increase compliance.
- It also recommends additional penalties to support greater enforcement and by-law amendments to further allow for greater enforcement and provide clarity to residents.
- Staff recommend adding exemptions for all City parks and facilities to Schedule 3,

Exemptions for Traditional, Festive, Religious or Other Activities, to provide clarity and ensure consistency in the application of the Noise Control By-law (refer to Appendix 2).

- Additionally, staff recommend the extension of the Live Music Pilot for an additional two years to allow for further data collection and a thorough analysis.
- Staff recommend that the force and effect date for the Noise Control By-law amendments be June 28, 2024.

## Background

In June 2023, staff presented the findings from the Noise Control By-law Program Review to General Committee. Council approved amendments to the permitted periods and noise exemption process in the Noise Control By-law 0360-1979 (“Noise Control By-law”) as well further amendments to be implemented when feasible. This included the introduction of decibel limits for the noise category of Amplified Sound, following the procurement of equipment and staff training, and improvements to the noise exemption process to improve the user experience and increase compliance.

Additionally, Council approved a one-year pilot project to allow live music along the Lakeshore Corridor and Streetsville BIA district from Thursday to Saturday until 11:00 PM and within the Cooksville BIA district until 11:00 PM on Saturdays only (GC-0319-2023). The amending by-law for the Live Music Pilot was passed at the June 28, 2023, Council Meeting.

## Present Status

### Decibel Readers

Funding for equipment and training was approved in the 2024 Budget. Three decibel readers have been purchased and training for MLEOs has been scheduled for June 2024.

### Delegated Authority Process

The June 2023 report addressed noise exemptions across City divisions and approved a delegated authority to City Divisional Directors to create and administer noise exemption procedures specific to their respective lines of business, subject to the approval off the Commissioner responsible for Enforcement. As of June 2024, the responsibility for granting noise exemptions for City roadways and parks has transferred to the respective divisional Directors. This change will streamline the process for residents and ensures that decisions are made by the staff members with the necessary knowledge and expertise within each division.

## Comments

### Jurisdictional Scan

Staff reviewed exemption process and decibel limits for amplified sound in Hamilton, Ottawa, Oakville, Toronto, and Vaughan (Appendix 1). The lead times for exemption applications ranged from 30 days in Oakville to six weeks in Hamilton. Resident notification is included in the application process for all jurisdictions. Notification areas and methods range depending on the

exemption type. All jurisdictions except for Oakville have different application types depending on the type of activity, with the most common types being construction and special event or amplified sound. All jurisdictions except for Vaughan include a decibel limit for their special event or amplified sound exemptions.

All five jurisdictions employ a quantifiable measure for noise, but only Toronto, Ottawa and Oakville have a specific decibel limit for amplified sound. Toronto limits amplified sound to 55 dB(A) outdoors and 50 dB(A) indoors between 7 a.m. and 11 p.m. and 50 dB(A) outdoors and 42 dB(A) indoors between 11 p.m. and 7 a.m. Ottawa’s limit is 55 dB(A) outdoors and 45 dB(A) indoors between 7 a.m. and 11 p.m., with no audible amplified sound permitted between 11 p.m. and 7 a.m. Oakville’s limit is 50dB(A) outdoors between 7 a.m. and 7 p.m., 47 dB(A) between 7 p.m. and 11 p.m. and 45 dB(A) between 11 p.m. and 7 a.m. Oakville’s indoor limit is 4 dB(A) over background noise between 7 a.m. and 7 p.m., with no unreasonable noise permitted for the rest of the day.

**Introduction of Decibel Limits for Amplified Sound**

The June 2023 report approved the introduction of an objective measure, when feasible for, amplified sound. Based on decibel limits in comparable jurisdictions and research and guidelines on acceptable noise levels, staff recommend that the decibel limit for the category of Amplified Sound be added to the Noise Control By-law. This decibel limit will be set for outdoor and indoor areas dependent on the time of day:

| Time of Day   | Outdoor              | Indoor               |
|---------------|----------------------|----------------------|
| 9 a.m.-7 p.m. | 55 dB(A) or 70 dB(C) | 50 dB(A) or 65 dB(C) |
| 7 p.m.-9 a.m. | 50 dB(A) or 65 dB(C) | 42 dB(A) or 57 dB(C) |

These limits align with decibel limits in comparable jurisdictions such as Toronto and Oakville and with the World Health Organization’s health-protective guidelines for daytime and evening exposures. For reference, 50 dB(A) is the sound of moderate rainfall, while 60 dB(A) is the sound of a dishwasher.

Decibel limits will be determined by the area and assessed at the point of reception. Measurements will be measured from an outdoor living area. If determined that it is unreasonable to measure from that point, the measurement may be taken from an indoor living area. If the ambient sound level is higher then the allowable decibel limits, the measurement will be adjusted accordingly.

**Changes to Exemption Process**

Staff are committed to implementing improvements to the exemption process set out in Noise Control By-law to improve the user experience and increase compliance. The current exemption process is a lengthy and onerous for both the applicant and staff. It requires residents to submit the application eight weeks prior to the event to allow time for a two-week public notification

period, two consultations with impacted Ward Councillor(s) and obtaining final approval by the Commissioner or their delegate.

During the review of the current process, staff identified operational efficiencies that will reduce the processing time for exemption applications. These efficiencies, along with proposed changes to the exemption process outlined in the Noise Control By-law, will make it less onerous for residents to apply for a noise exemption, which may increase compliance.

#### Application Submission:

In addition to the current Noise Control By-law requirement to provide the name and address of the applicant and information on the type of exemption being sought, staff recommend requiring the applicant to provide the name and contact information of person(s) responsible for supervising the event. Staff also recommend requiring a declaration that the responsible person(s) listed in the application will be on site for the duration of the exemption period. This change will make it easier for staff to contact the event organizers in the case of any non-compliance.

#### Public Notification:

Currently, applicants are required to notify residents of their intention to seek a noise exemption either by providing proof of publication of an advertisement in a newspaper of general circulation for two consecutive days or distributing flyers to all residents within a 500-metre radius of the subject property. This requirement is cited by stakeholders as being particularly onerous and may be a barrier to compliance. Staff recommend removing proof of publication as an option, since there are no local newspapers of general circulation. Staff also recommend reducing the flyer radius to 120 metres, which aligns with comparable jurisdictions and other City notification requirements.

Further, for construction noise exemption applications, staff recommend that construction companies be required to remind residents within 120 metres of the source of sound or vibration one week prior to commencement of the construction activities.

#### Decibel Limits for Amplified Sound Noise Exemptions:

Staff recommend introducing a provision to the exemption process in the Noise Control By-law that will allow the Commissioner responsible for Enforcement to determine the maximum allowable sound limit admitted from any electronic device to a maximum of, 85 dB(A) or 105 dB(C) when measured from the lot line of the property where the event or activity is occurring. This change will ensure that quantifiable measures are being applied to all sources of amplified sound.

#### Introduction of Monitoring Fee:

To ensure compliance, staff recommend introducing the option to impose a monitoring fee for events to ensure the noise volume(s) are kept within the allowable decibel limits indicated on the approved exemption. Noise monitoring will be conducted by MLEOs. Staff recommend that

a monitoring fee of \$90 per hour per officer plus applicable taxes be added to the User Fees and Charges By-law 0199-2023, as amended. The fee will be for a minimum of two hours per MLEO and events occurring after 7 p.m. will require two MLEOs. This fee aligns with the fee for nuisance gathering enforcement.

### **Introduction of Additional Part I Fines**

Staff have identified a need for additional penalties to support greater enforcement. Staff recommend introducing Part I fines for Persistent Sound and Schedule One (General Prohibitions) violations, using the current set fine amount of \$305. This will allow for increased enforcement of violations outside of the permitted periods of time.

Staff also recommend applying for an increased fine for Unnecessary or Unreasonable Vehicle Noise, to align with other jurisdictions and to provide additional enforcement tools for Peel Regional Police (PRP). Staff will make an application to the Ministry of the Attorney General to seek approval for a \$500 Part I fine from the Regional Senior Justice.

If this recommendation is approved, Legal Services will make an application to the Ministry of the Attorney General for set fines under Part I of the Provincial Offences Act for the Noise Control By-law.

### **Other Noise Control By-law Amendments**

Through the implementation of the Noise Control By-law amendments and dedicated enforcement by the Enhanced Evening Enforcement team, staff have identified several recommended amendments to allow for greater enforcement. Staff recommend that the Noise Control By-law be amended substantially in the form outlined in Appendix 2. This will include the following:

#### **Definitions to Increase Clarity:**

Staff recommend expanding the definition of Construction Equipment to clarify that it does not include the operation of any powered or non-powered tools for domestic purposes. Staff also recommend adding in definitions for “Ambient Sound Level”, “Person” and “Statutory Holiday” and replacing the definition of “Noise Control Officer” with a more general definition of “Officer” that would include Peel Regional Police or Ontario Provincial Police Officers. These recommendations are based on resident feedback and are intended to make it easier to interpret the Noise Control By-law.

#### **Alignment of Idling Period in Schedule One (General Prohibitions):**

Schedule One prohibits the idling of any motor vehicle for five or more minutes. This is not aligned with the current definition of Persistent Sound, which prohibits noise that is continuously heard for a period of ten consecutive minutes. Staff recommend amending the Idling Period in Schedule One with the definition of Persistent Sound to prevent confusion. While these prohibitions address the noise created by idling, Idling Control By-law 0194-2009 can be utilized to address the health and environmental impacts.

Amendments to Schedule 3 (Exemptions for Traditional, Festive, Religious or Other Activities):

Schedule 3 is a schedule of community events and festivals and City facilities which receive exemptions to the Schedule 1 general prohibitions and Schedule 2 permitted prohibited periods. Staff consider several factors when determining if an event should be added to Schedule 3, including number of years the event has operated without incident or community concern, nature of the event, event location and proximity to residents and timing of the event.

Staff recommend the following changes in relation to Schedule 3:

- Dividing Schedule 3 into General Exemptions and Event Specific Exemptions, to provide increased clarity.
- Adding general exemptions for City activities or City approved activities at the City's parks and facilities to provide clarity and ensure consistency in the application of the Noise Control By-law. This will include an exemption for City vehicle and employees or agents acting within the scope of their duties as employees or agents of the City.
- Introduction of a provision to the Noise Control By-law, which would allow the Commissioner or a Director with delegated authority to impose conditions on activities or events that have been exempted under Schedule Three.
- Modification or deletion of community events which no longer occur or whose location has changed. These events have been deleted from the Event Specific Exemptions or modified as required.

Extension of Live Music Pilot

The current Live Music Pilot project will expire on June 28, 2024. Staff recommend extending the Live Music Pilot for an additional two years to allow for further data collection and a thorough analysis on the outcomes of the Pilot. This will include collecting and analyzing data to determine impacts, complaints, and risks.

Force and Effect Date

Staff recommend that the force and effect date for the Noise Control By-law amendments be June 28, 2024.

**Financial Impact**

There is no current financial impact resulting from the recommendations of this report.

**Conclusion**

Staff have implemented the recommendations from the June 2023 Noise Control Program Review corporate report and are returning to General Committee to obtain approval for further amendments to the Noise Control By-law. These include the introduction of decibel limits for the noise category of Amplified Sound, which will provide an objective noise threshold, and improvements to the noise exemption process to improve the user experience and increase compliance. Staff have also provided recommendations for additional penalties to support greater enforcement, amendments to further improve the clarity of the Noise Control By-law and

to extend the Live Music Pilot program for a further two years. These changes support the original purpose of the Noise Control By-law Review, which was to better meet the need to the community, through program enhancements.

## Attachments

Appendix 1: Jurisdictional Scan

Appendix 2: Amendments to Noise Control By-law 0360-1979



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Raj Sheth, P.Eng, Commissioner of Corporate Services

Prepared by: Georgios Fthenos, Director, Enforcement Division